

**ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
ILLINOIS DIVISION OF PROFESSIONAL REGULATION**

AUCTION ADVISORY BOARD

Meeting Date: November 14, 2008
 Meeting Convened: 9:30 a.m.
 Meeting Adjourned: 12:30 p.m.
 Meeting Location: IDFPR Springfield Office
 500 East Monroe Street
 Conference Room, Ninth Floor

Board Members Present: Terry Dunning, Chair, Auction Member
 Rick Levin, Auction Member
 Alva McDowell, Auction Member

Board Members Absent: Ray Doerr, Auction Member
 Judie McConville, Real Estate Member

Division Staff Present: Susan Sigourney, Auction Board Liaison, Administrative Assistant

Guests: Darrell Adcock, Rob Henke, Otis Holley

TOPIC	DISCUSSION	ACTION
Approval of Minutes:	The Board reviewed the minutes from the September 26, 2008 Auction Advisory Board meeting.	A motion was made by McDowell/seconded by Levin to approve the Auction Advisory Board minutes from the September 26, 2008 meeting. The motion passed.
Report – Chairperson:	Terry Dunning, Chairperson, informed the Board that Ron Hardgrove and Young Brockhouse would not be present at this meeting. They are attending a Real Estate License Act review meeting which was scheduled for the same time of the Auction Board meeting.	
Staff	Mr. Dunning informed the board that a new investigator has been hired. This new investigator started at this agency in mid-October.	
Auction Exam Item Review with AMP	Terry Dunning also told the Board about the auction exam item review session with our testing vendor, Applied Measurement Professionals, Inc. (AMP). This meeting took place on October 22 in Elk Grove Village, Illinois. The purpose of this meeting was to discuss the exam questions which must be	

	updated or revised since the Auction License Act has been amended.	
Auction License Report:	Auction License Reports for October 2008 had been distributed to the Board. The October report indicated there were 1,277 active Illinois licensed auctioneers/associate auctioneers. The total number of active auction licenses at the end of October, 2008 was 1,530. This figure includes auctioneers, associate auctioneers, auction firms, auction continuing education (CE) schools, CE courses, and Internet Auction Listing Services. In October there were five new licensees.	
Report from Prosecutions:	<p>John Botner was not present at the meeting; however, the Board had been distributed copies of his Prosecutions Report. This Report indicates activity for September - October 2008:</p> <ul style="list-style-type: none"> • 29 Total Legal Cases in Auction • 380 Total Legal Cases in the Division (Auction, Real Estate, Home Inspection, Appraisal, Timeshare, Land Sales). • Case Activity – Since last Board meeting: <ul style="list-style-type: none"> Formal Complaints Filed – 0 Orders referred – 2 Cases Referred to Prosecution – 0 Cases Closed – 1 Conferences – 0 Motions filed – 1 Formal Hearings -0 	
Old Business: Administrative Rule changes not yet finalized Note:	<p>Susan Sigourney told the Board that the rule was currently with this agency’s Senior General Counsel’s office and it should be filed anytime. Note: since the meeting, Susan Sigourney has responded to questions from the Governor’s office pertaining to the rule changes. At this time, the rules have been approved. Now the rule must be accepted by the Secretary of State’s office.</p> <p>Note: as of the writing of the minutes, the status of the Administrative rule has changed. The</p>	

<p>Auction CE Audit</p>	<p>Governor’s office gave approval to proceed with the Auction Rule Part 1440. On December 5, 2008, the Auction Rule has been filed with the Secretary of State’s office. The Rule will be published in the December 19th Illinois Register.</p> <p>Susan Sigourney informed the Board that of the twenty-five auction continuing education audit letters that were sent to licensees, nine of these auctioneers have not responded to the audit letter. These files will be sent to Enforcement.</p>	<p>Susan Sigourney will contact those auctioneers that received audit letters and have responded; however, they still need to either complete CE and/or pay the fee. Nine auction CE audit files have been closed.</p>
<p>New Business:</p> <p>Auction License Act Review</p>	<p>Terry Dunning had distributed a position paper from the Illinois State Auctioneers Association (ISAA). In this position paper, the ISAA supports of all of the Act changes from the June 1, 2008 amendments. The oppositions and proposals were mainly in reference to the Administrative Rule.</p> <p>A copy of the Auction License Act was distributed to the Board. The Board reviewed each section of the Act. Comments and suggested revisions are as follows:</p> <ul style="list-style-type: none"> • In Section 5-10 Definitions: The board suggested the definition of “Buyer Premium” be added. According to the Rule, “Buyer Premium means any fee or compensation paid by the successful purchaser of property sold or leased at or by auction, to the auctioneer, associate auctioneer auction firm, seller, lessor or other party to the transaction, other than the purchase price.” • In Section 10-1 (a) (1) Necessity of license; exemptions: ...unlawful to hold himself out as an auctioneer...except at (1) an auction conducted solely by or for a not-for-profit organization for charitable purposes if not compensated. The Board suggested adding legal language regarding; the individual is only exempt if the individual performing the auction is not compensated. 	

**Auction License Act
Review continued...**

- Section 10-15 Requirements for associate auctioneer license; The Board commented this section may be repealed if there is no longer an associate auctioneer designation/license. Those individuals that currently have an active associate auctioneer license will become auctioneers by some process that has not been put into place at this time.
- Section 10-20 Requirements for auction firm license; application: language should be added to include all unlicensed officers shall submit affidavits of non-participation with the auction firm application.
- Since Section 10-25 Practice prior to this Act, has been repealed, the Board is concerned auctioneers with 440 license (exempt from the Real Estate License Act) will no longer be able to auction “real” property. They also question if the associate auctioneer category of license is removed, will those associate auctioneers with a 442 license (also exempt from the Real Estate License Act) be able to continue to auction “real” property.
- Section 10-27 (e) Registration of Internet Auction Listing Service: the renewal date for the Internet Auction Listing Services should be the same as the other auction licenses – December 31, of even numbered years.
- Section 15-10 Auction Contract: The Board suggested omitting the word “oral” as it refers to an auction contract. Also in Section 15-10 (1): the Board would like to add the contract also must state if a buyer premium is charged by the licensee and who receives this buyer premium (if there is a buyer premium charged, to whom is it distributed). Also in Section 15-10 (2): the Board suggested adding to the contract, the seller should disclose if the auction is absolute or with reserve. Also in Section 15-10 (B): The Board would like to add “easements” to the list of items the seller must disclose on a contract.

<p>Auction License Act Review continued...</p>	<ul style="list-style-type: none"> • Section 20-15 Disciplinary actions; grounds: The Board would like to delete (8) which pertains to referral fees. Per the Board, it is common practice in the auction industry for an auctioneer to give a referral to someone other than a licensee. <p>Also in Section 20-15 (13): The Board would like to see language pertaining to credit card companies taking their fees out of the licensee's escrow account. They would also like further clarification/legal advice how to handle money that comes in from Internet buyers.</p> <p>In Section 20-15 (21) The Board would like information pertaining to the Auction Recovery Fund activity and balance.</p> <ul style="list-style-type: none"> • In Section 20-55 Motion for rehearing; rehearing: The Board asked why the respondent only has 20 days to present a motion in writing for a rehearing. • Section 30-30 Auction Advisory Board: (f) The Board questioned how often is the Board required to meet. 	
<p>Motion to go into Closed Session</p>		<p>A motion was made by McDowell/seconded by Levin to go into Closed Session at 9:50 a.m. The motion passed.</p>
<p>Deliberations</p>	<p>E2007-90021 Dominic Antony Briscoe</p>	
<p>Motion to go into Open Session</p>		<p>A motion was made by McDowell/seconded by Dunning to go into Open Session at 10:05 a.m. The motion passed.</p>
<p>Recommendations</p>	<p>E2007-90021 Dominic Antony Briscoe</p>	<p>A motion was made by McDowell/ seconded by Levin to revoke Dominic Antony Briscoe's auctioneer license. The motion passed.</p>

Adjournment		There being no further business to discuss, a motion was made by McDowell/ seconded by Dunning to adjourn at 12:30 p.m.
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